

## **REMARKS**

### **I. Claim Rejections – 35 U.S.C. § 112**

Claims 3, 4, 13 and 14 were rejected by the Examiner under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which the Applicant regards as the invention. The Examiner argued that the term "can be" in claims 3, 13 is a relative term, which renders the claim indefinite. The Examiner asserted that the claim "can be" is not defined by the claim, and that the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The Applicants have cancelled claims 3, 4 and 13, 14 by amendment as indicated herein. The features of claims 3, 4 have been incorporated into claim 1 by amendment, while the features of claims 13, 14 have been incorporated into claim 11. The Applicants therefore submit that the aforementioned rejection to claims 3, 4, 13 and 14 under 35 U.S.C. § 112, second paragraph, are rendered moot in light of such amendments, particularly because the term "can be" is not used in amended claims 1 and 11. The Applicants therefore respectfully request that the rejection to claims 3, 4, 13 and 14 under 35 U.S.C. § 112, second paragraph, be withdrawn.

### **II. Claim Rejections Under 35 U.S.C. § 102**

The Examiner rejected claims 1-3, 11-13 and 19-20 under 35 U.S.C. § 102 as being anticipated by Daigle (U.S. Patent No. 4,418,252). The Examiner argued that Daigle discloses a key switch 15 comprising: an enclosure 16 having a plurality

of walls 21, 22, 30 and 31 from which a cavity and at least one slot 41 are formed; a plunger 18 comprising at least one key portion 61 and 62, wherein the plunger 18 is partially located and maintained within the cavity of the enclosure 16; at least one slot 41 formed from at least one wall 22 of the enclosure 16 for engaging the at least one portion 61 and 62 of the plunger 18; a plunger 18 comprising a shape in the form of a shaft; at least one wall 21 of the plurality of walls 21, 30 and 31 comprising an opening 78 which can be covered by a removable mating cover 21; the plunger 18 comprising an undercut portion 81; engaging the undercut portion of the plunger 18 with a protruding portion 25 of the cover 21, which surrounds the undercut portion of the plunger to maintain the plunger within the enclosure 17; wherein the protruding portion of the plunger extends from the cover in a direction perpendicular to the cover.

The Applicants respectfully disagree with this assessment. Claim 1 has been amended to incorporate all of the limitations of claims 2-4, which have been cancelled by amendment. All such features and limitations of amended claim 2 are not taught, disclosed or suggested by Daigle. Similarly, claim 11 has been amended to incorporate all of the limitations of claims 12-14, which have been cancelled by amendment. All such features and limitations of amended claim 11 are not taught, disclosed or suggested by Daigle.

With respect to claims 19-20, Applicants note that claim 19 has been amended to indicate that claim 19 depends from claim 15. Claim 20 depends from claim 19. Claim 15 has been amended as indicated herein to incorporate features and limitations, which are not taught, suggested or disclosed Daigle. Claim 15 was originally dependent upon claim 11. All of the features and limitations of claim 11 have therefore been incorporated into claim 15 via the amendments indicated herein. The Examiner indicated in the Office Action dated October 1, 2004 that

claim 15 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. There were no intervening claims between claim 11 and claim 15, because claim 15 depended directly from claim 11 prior to the amendments indicated herein. Therefore, amended claim 15 incorporates all of the features of the original base claim (i.e., claim 11). Because claim 15 is allowable, any claims dependent upon claim 15 should also be allowed, because all of the features and limitations of such claims are not taught, suggested or disclosed by Daegle.

Therefore, because all such features and limitations of the amended claims are not taught or disclosed by Daigle, the Applicants submit that the arguments presented above with respect to the rejections to claims 1-3, 11-13 and 19-20 under 35 U.S.C. § 102 as being anticipated by Daigle are rendered moot light of the claim amendments indicated herein. Applicants respectfully request that the rejection to claims 1-3, 11-13 and 19-20 under 35 U.S.C. § 102 be withdrawn.

### **III. Allowable Subject Matter**

The Examiner indicated that claims 4 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in the Office action dated October 1, 2004 and to include all of the limitations of the base claim and any intervening claims. To this end, claim 4 has been rewritten (i.e., see amended claim 1) to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph and to include all of the limitations of the base claim and any intervening claims. Similarly claim 14 has been rewritten (i.e., see amended claim 11) to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph and to include all of the limitations of the base claim and any intervening claims.

The Examiner further indicated that claims 5-7 and 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Applicants note that claim 5 was originally dependent upon claim 1. Claim 5 dependent directly from claim 1 and therefore there were no intervening claims between claim 5 and claim 1. Applicants' amended claim 5 has been rewritten in independent form to include all of the limitations of the base claim and any intervening claims (i.e., there were no intervening claims between claims 1 and 5). Therefore, Applicants submit that claim 5 is now allowable and that any dependent claims thereof (e.g., claims 6-7) should also be allowed.

Regarding claims 15-18, Applicants note that claim 15 has been amended as indicated herein to incorporate features and limitations of claim 11, from which claim 15 previously depended. All of the features and limitations of claim 11 (i.e., the base claim) have therefore been incorporated into claim 15 via the amendments indicated herein. Applicants therefore submit that claim 15 is now allowable and that any dependent claims thereof (e.g., claims 16-18) should also be allowed.

The Examiner allowed claims 8-10.

#### **IV. Conclusion**

In view of the foregoing discussion, the Applicants have responded to each and every rejection of the Official Action. The Applicants have clarified the structural distinctions of the present invention by amendments herein. The foregoing discussion and amendments do not present new issues for consideration

and no new search is necessitated. Such amendments are supported by the specification and do not constitute new matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §103, and further examination of the present application.

Should there be any outstanding matters that need to be resolved in the present application; the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kermit Lopez", is written over a horizontal line.

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